

REMARKS

Claims 1-9 are pending in the application. In the Office Action of November 18, 2005, the Examiner made the following disposition:

- A.) Rejected claims 1, 3-5, and 7-9 under 35 U.S.C. 102(b) as being anticipated by *Thackeray, et al.*
- B.) Rejected claims 1, 5, and 9 under 35 U.S.C. 102(e) as being anticipated by *Mizutani, et al.*
- C.) Rejected claims 2 and 6 under 35 U.S.C. 102(b) as anticipated by or in the alternative under 35 U.S.C. 103(a) as unpatentable over *Thackeray, et al.*
- D.) Provisionally rejected claims 1 and 5 under the judicially created doctrine of double patenting in view of claims 1-2 of Application No. 10/439,807.

Applicants respectfully traverse the rejections and address the Examiner's disposition below. Claims 10-18 are newly added.

- A.) Rejection of claims 1, 3-5, and 7-9 under 35 U.S.C. 102(b) as being anticipated by *Thackeray, et al.*:

Applicants respectfully disagree with the rejection.

Independent claims 1 and 5, each as amended, each claim an anode material comprising a tin-containing material including metallic tin and Cu_3Sn in the same particle.

This is clearly unlike *Thackeray*, which fails to disclose or suggest an anode material comprising a tin-containing material including metallic tin and Cu_6Sn_5 in the same particle. Nowhere does *Thackeray* disclose or suggest an anode material that comprises Cu_3Sn . Therefore, *Thackeray* fails to disclose or suggest claims 1 and 5.

Claims 3, 4, and 7-9 depend directly or indirectly from claim 1 or 5 and are therefore allowable for at least the same reasons that claims 1 and 5 are allowable.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

- B.) Rejection of claims 1, 5, and 9 under 35 U.S.C. 102(e) as being anticipated by *Mizutani, et al.*:

Applicants respectfully disagree with the rejection.

Independent claims 1 and 5, each as amended, each claim an anode material comprising a tin-containing material including metallic tin and Cu_3Sn in the same particle.

This is clearly unlike *Mizutani*, which fails to disclose or suggest an anode material comprising a tin-containing material including metallic tin and Cu_6Sn_5 in the same particle. Nowhere does *Mizutani* disclose or suggest an anode material that comprises Cu_3Sn . Therefore, *Mizutani* fails to disclose or suggest claims 1 and 5.

Claim 9 depends directly or indirectly from claim 5 and is therefore allowable for at least the same reasons that claim 5 is allowable.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

C.) Rejection of claims 2 and 6 under 35 U.S.C. 102(b) as anticipated by or in the alternative under 35 U.S.C. 103(a) as unpatentable over *Thackeray, et al.*:

Applicants respectfully disagree with the rejection.

Independent claims 1 and 5 are allowable over *Thackeray* as discussed above.

Claims 2 and 6 depend directly or indirectly from claim 1 or 5 and are therefore allowable for at least the same reasons that claims 1 and 5 are allowable.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

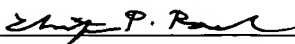
D.) Provisional rejection of claims 1 and 5 under the judicially created doctrine of double patenting in view of claims 1-2 of Application No. 10/439,807:

Applicants respectfully disagree with the provisional rejection. Further, since the respective applications are currently pending, Applicants believe that it is premature to file a terminal disclaimer at this time.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-9 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

 (Reg. No. 45,034)
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